

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:98-00069

STEFAN L. MCCRAY

SUPERVISED RELEASE REVOCATION AND JUDGMENT ORDER
MEMORANDUM OPINION AND ORDER

On December 15, 2011, the United States of America appeared by Christopher J. Krivonyak, Assistant United States Attorney, and the defendant, Stefan L. McCray, appeared in person and by his counsel, David R. Bungard, Assistant Federal Public Defender, for a hearing on the petition on supervised release submitted by United States Probation Officer Winifred R. Staats, the defendant having commenced a thirty-two month term of supervised release in this action on January 21, 2010, as more fully set forth in the Revocation of Supervised Release and Judgment Order entered by the court on April 10, 2009.

The court heard the admissions of the defendant and the representations and argument of counsel.

For reasons noted on the record of this proceeding, which are ORDERED incorporated herein by reference, the court found that the defendant has violated the conditions of supervised release in the following respects: (1) that the defendant failed to abide by the special condition that he spend a period of six months in a community confinement center inasmuch as he arrived at Dismas Charities on May 26, 2011, and was terminated from the program on August 9, 2011, for having received multiple disciplinary reports for unaccountability, possession of alcohol, failing to complete chores and testing positive for alcohol on two separate occasions, as evidenced by the defendant's admission on the record of the hearing; (2) that the defendant failed to abide by the special condition that he not use, purchase or possess alcohol while on supervised release inasmuch as he was in possession of a can of beer when he returned to Dismas Charities on June 17, 2011, and tested positive for alcohol on July 11 and August 8, 2011, and again on August 10, 2011, when he admitted to the probation officer that he had consumed tequila and beer the previous night, as evidenced by the defendant's admission on the record of the hearing; and (3) that the defendant committed the state and local offenses of leaving the scene of an accident and driving

on a revoked license for which he was cited on September 20, 2011, as evidenced by his stipulation on the record of the hearing that the government possesses sufficient evidence to prove the offenses by a preponderance of the evidence; all as admitted by the defendant as set forth above and as set forth in the petition on supervised release.

And the court finding, as more fully set forth on the record of the hearing, that the violations warrant revocation of supervised release and, further, that it would unduly depreciate the seriousness of the violations if supervised release were not revoked, it is ORDERED that the supervised release previously imposed upon the defendant in this action be, and it hereby is, revoked.

And the court having complied with the requirements of Rule 32(a)(1)(B) and (C) of the Federal Rules of Criminal Procedure, and finding, on the basis of the original offense, the intervening conduct of the defendant and after considering the factors set forth in 18 U.S.C. § 3553(a), that the defendant is in need of correctional treatment which can most effectively be provided if he is confined, it is accordingly ORDERED that the defendant be, and he hereby is, committed to the custody of


the United States Bureau of Prisons for imprisonment for a period of SIX (6) MONTHS, to be followed by a term of twenty-six (26) months of supervised release upon the standard conditions of supervised release now in effect in this district by order entered June 22, 2007, and the further condition that the defendant not commit another federal, state or local crime and the special condition that he spend a period of six months at Transitions, Inc. and participate in its alcohol abuse and treatment program, participate in the NA/AA 12-step program, follow the rules and regulations of the facility, and once released from Transitions, continue to participate in the most intensive alcohol abuse and treatment program as is available.

The defendant was remanded to the custody of the United States Marshal.

Recommendation: The court recommends that the defendant be designated to FCI Ashland.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: January 4, 2012



John T. Copenhaver, Jr.
United States District Judge